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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,178	02/25/2002	Randy Walburger	01-10416	5149
25189	7590	10/17/2003	EXAMINER	
CISLO & THOMAS, LLP 233 WILSHIRE BLVD SUITE 900 SANTA MONICA, CA 90401-1211			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,178

Applicant(s)

WALBURGER, RANDY

Examiner

Chi Q Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to the applicant's election without traverse of claims 1-16 in Paper No. 3 is acknowledged.

Specification

1. The disclosure is objected to because of the following informalities: the applicant is advised to remove underlining for headings.

Appropriate correction is required.

Claim Objections

2. Claim 1 is objected to because of the following informalities: the applicant is advised to remove a space between "box and structure" on line 2. Appropriate correction is required.
3. Claim 12 is objected to because it depends on itself. Correction is required.
4. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 17-20 had been renumbered 16-19.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3635

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heifetz (US 3,778,528) in view of Nielsen (US 4,974,376).

In regard to claims 1, 10 Heifetz teaches modular shelter comprising an elongated horizontally oriented generally box structure 10 having interior sidewalls 20, 22 defining a first interior volume, and exterior sidewalls 24, 26 extending to an opposing end defining a second interior volume, a substantially flat bottom surface 88. The first and the second interior volumes are separated by an end wall 38 and the box structure 10 configured for securing together a plurality of similar modular structures (figs. 2 and 4). Heifetz does not teach expressly the box like shelter having interior sidewalls defining a generally cylindrically shaped first interior volume. Nielsen teaches temporary shelter having stackable shelters 10 including interior sidewalls defining a generally cylindrically shape 14 (figs. 1-2). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Heifetz with Nielsen for the cylindrical shaped interior shelter. The motivation for doing so would have been to minimize dead spaces so that more shelters could be stacked to house more occupants. In regard to claims 2-3, Heifetz teaches additional modular units are stackable one atop another (fig. 4). In regard to claim 5, Heifetz teaches the box like structure having a closet or dressing room 96 (fig. 4). In regard to claims 8 and 9, Heifetz teaches the structure is fabricated of molded plastic, weather tight (col. 5, lines 10-51).

7. Claims 6, 7, 11, 12, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heifetz (US 3,778,528) in view of Nielsen (US 4,974,376) and further in view of Shane (US 5,638,646).

With regard to claims 6, 7, 11, 12, 16 Heifetz and Nielsen teach the structural elements for the shelter except for the shower unit secured to a dressing room unit and a passageway there between, shelter comprising a sink attachable to the exterior of the dressing room unit, a first door closing off the first interior volume and a second door closing off the second interior volume, locking means. Shane teaches a shelter comprising an elongated horizontally oriented generally box like structure 10 having bathroom unit 34, a passageway 14, a sink 42, a first door 21, a second door 21', locking means L (see attached fig. 2). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Heifetz and Nielsen with Shane for the structure having bathroom unit, a passageway, a sink, a first, second doors and locking means. The motivation for doing so would have been to provide more convenience for occupant.

8. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heifetz (US 3,778,528) in view of Nielsen (US 4,974,376) and further in view of Jazzar (US 5,081,805).

With regard to claim 14, Heifetz and Nielsen teach the structural elements for the box like shelter as stated including sidewalls are fabricated from plastic and foamed material filled in between. The foam material is high compressive strength and good fire resistance or retardation characteristics (col. 6, lines 13-14). Heifetz and Nielsen do not

specifically teach the foamed sidewall having sound dampening. The examiner considers the foamed material is inherently having sound dampening characteristic at some levels.

With regard to claim 4, Heifetz and Nielsen teach the structural elements for the box like shelter except for a plurality of legs protruding from a bottom of the box structure and a plurality of corresponding cavities on a top. Jazzar teaches stackable module units including a plurality of legs 54 from a bottom of the structure 10 and a plurality of corresponding cavities 49 on a top 51 (figs. 7-10). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Heifetz, Nielsen with Jazzar for the plurality of legs and cavities. The motivation for doing so would have been to provide engagement between two stackable shelters.

9. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heifetz (US 3,778,528) in view of Nielsen (US 4,974,376) and further in view of Sanford (US 6,179,522).

Heifetz and Nielsen teach the structural elements for the box shelter as stated except for raised bosses at corners and edges of the box structure and ventilating means.

Sanford teaches box like shelter unit including raised bosses 103 at all corners and edges, and ventilating means 50 (fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine of Heifetz, Nielsen with Sanford for the raised bosses at corner and edges and ventilating means. The motivation for doing so would have been to allow mechanically lifting and air ventilation through the shelter.

Art Unit: 3635

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Payne (US 6,155,747), Seensson (US 6,256,936), Abraham (US 5,537,787), Musto (US 5,203,707) teach structural elements for shelter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Monday-Thursday (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



CQN
10/8/03



Carl D. Friedman
Supervisory Patent Examiner
Group 3600

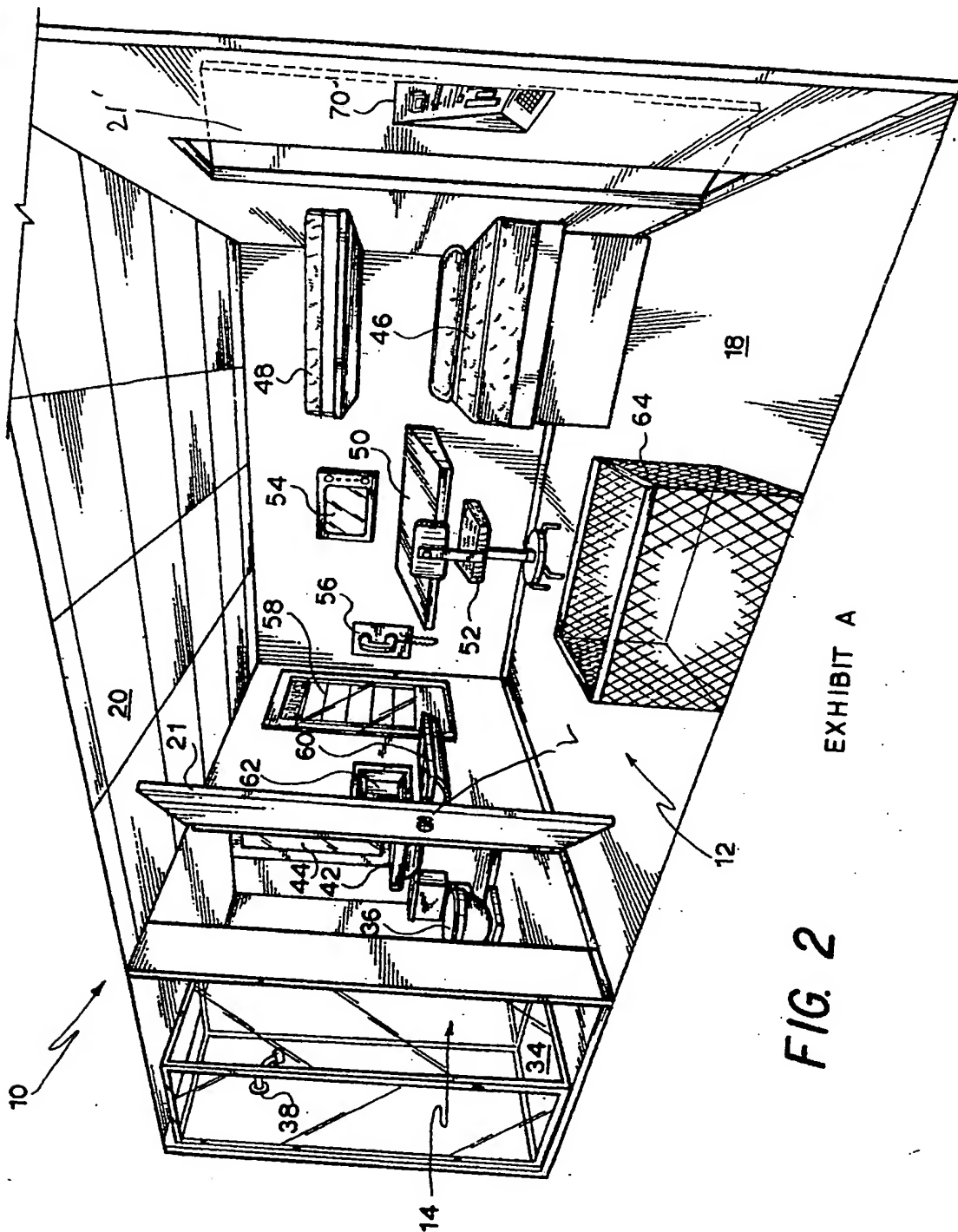


FIG. 2

EXHIBIT A